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Wilfred Lam Innovation Management Sciences P.O. Box 1169 Los Altos, CA 94023-1169			PHAM, HUNG Q	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/789,665	ROCHE ET AL.
	Examiner	Art Unit
	HUNG Q. PHAM	2168

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 April 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-9,11,20,21,23,24 and 26-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-9,11,20,21,23,24 and 26-33 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

Response to Arguments

Claim Objections

The objection of claim 27 has been withdrawn in view of the amendment.

Specification

The objection to the Specification has been withdrawn in view of the amendment.

Duplicate Claims, Warning

The warning of the duplication has been withdrawn in view of the cancellation of claim 14.

Claim Rejections - 35 USC § 101

- The rejection of claims 8, 9, 11 and 26-30 under 35 U.S.C. § 101 has been withdrawn in view of the amendment.
- The rejection of claims 20, 21, 23 and 24 under 35 U.S.C. § 101 is sustained. Claims 20, 21, 23 and 24 recite a computer-readable storage medium. As disclosed in the Specification, the recited computer-readable storage medium includes a stream of information [Paragraph 0081]. The description of paragraph 0024 has provided evidence that applicant intends the medium to include signals, e.g., a stream of information, as such the claimed invention is drawn to a form of energy. Energy is not one of the four categories of invention and therefore claims 1-8 are not statutory. Energy is not a series of steps or acts and thus is not a

Art Unit: 2168

process. Energy is not a physical article or object and as such is not a machine or manufacture.

Energy is not a combination of substances and therefore is not a composition of matter.

Claim Rejections - 35 USC § 102

- Applicant's arguments with respect to the rejection of claims 1, 8 and 20 under 35 U.S.C. § 102 have been fully considered but they are not persuasive.

As argued by applicant at page 11:

Thus, the limitations of populating a merchandising database with "selected product information from at least one user interaction" (claim 1, as amended, lines 4-5), of a merchandising database system including an interface for obtaining "selected product data... from at least one user interaction...with a Web-page" (claim 8, as amended, lines 4-5, emphasis added), and a computer readable storage medium having stored thereon a software element which obtains "product information from at least one user interaction... with a Web-page" (claim 20, as amended, lines 6-7, emphasis added) are not found in Musgrove. It is well established that "A claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See also M.P.E.P. § 2131. Thus, since Musgrove fails to teach each element of claims 1, 8, and 20, it cannot render those claims unpatentable under 35 U.S.C. 102(e).

The examiner respectfully disagrees. The Musgrove reference discloses the added features of claims 1, 8 and 20 as amended in the Amendment filed on 04/03/07.

As shown in FIG. 1 of Musgrove reference, commerce system includes shopping server 20, client computer 12 and merchant server 40. As taught by Musgrove, the first phase of the purchase procedure permits the shopper to search products, browse for products (Col. 6 Lines 49-51). Product information can be searched and displayed by product type, part numbers, price... using an interface and presented to the shopper by browser application on client computer (Col. 5 Lines 28-32). The shopper then selects one or more products for purchase

Art Unit: 2168

from one or more merchant servers 40 (Col. 6 Lines 51-53). When a user selects a product for purchase (Col. 5 Lines 53-57), a transaction record is created with transaction information including credit card information, billing addresses, merchant SKU or selected products, shipping options (Col. 6 Lines 67-Col. 7 Lines 6) and stored in shopper database (Col. 7 Lines 42-47 and 60-64).

In short, Musgrove discloses the step of *obtaining merchandising data related to a product*, e.g., credit card information, billing addresses, merchant SKU or selected products, shipping options, *from a point of presentation of the product*, e.g., the selected product web page hosted by merchant server, *the obtaining step comprising acquiring selected product information from at least one user interaction at a second network location*, e.g., the merchant SKU is selected by a user from client computer 12, *with a presentation medium obtained from a server at a third network location*, e.g., the web page contains the product obtained from merchant server.

- Applicant's arguments regarding the rejection of dependent claims 2-7, 9, 11 and 23-24 under 35 U.S.C. § 102 have been fully considered but they are not persuasive. These dependent claims are unpatentable over Musgrove for at least the reasons as discussed above with respect to claims 1, 8 and 20.
- Applicant's arguments with respect to new claims 31-33 have been fully considered. The rejection of these new claims will be detailed as in following rejection.
- Applicant's arguments with respect to the rejection of amended claim 26 under 35 U.S.C. § 102 have been fully considered but they are not persuasive.

As argued by applicant at page 13:

*In contrast, the WebCrawler in the Musgrove disclosure obtains data from the vendor web-sites directly. Moreover, the limitations of claim 26 (as amended) of "rendering in response to user interaction...a description of one or more products" (lines 3-4, emphasis added), and "modifying the merchandising product databases using the data related to the products" (line 13) are not found in Musgrove et al. Therefore, applicant asserts that Musgrove fails to teach each element of claim 26 (as amended), and again pursuant to Verdegaal Bros., *supra*, that reference fails to render claim 26 unpatentable under 35 U.S.C. 102(e).*

The examiner respectfully disagrees.

(1) *The claimed limitation rendering, in response to user interaction with an interactive catalog, at least a portion of the interactive catalog at a second network location, wherein content of the rendered portion includes a description of one or more products and wherein the content is obtained from one or more source product database at a third network location is an inherited feature of Musgrove technique.*

As shown in FIG. 1 of Musgrove reference, commerce system includes shopping server 20, client computer 12 and merchant server 40. As taught by Musgrove, product information such as product descriptions, pricing, delivery dates from plural merchants are gathered (Col. 5 Lines 18-22). Product information can be searched and displayed by product type, part numbers, price... using an interface and presented to the shopper by browser application on client computer (Col. 5 Lines 28-32). As suggested by Musgrove, the shopping interface of SMARTSHOP.COM can be used in connection with Musgrove technique (Col. 5 Lines 41-43).

When the user at client computer 12 accesses an interactive catalog, e.g., SMARTSHOP.COM (SMARTSHOP.COM, Page 1), and *in response user interaction with an interactive catalog, e.g., selecting Dot Matrix Printers (SMARTSHOP.COM, Page 3), at least a portion of the interactive catalog at a second network location is rendered*, e.g., Pages 5-7 of SMARTSHOP.COM is rendered via the browser of client computer 12, *wherein content of the rendered portion includes a description of one or more products*, e.g., product descriptions are rendered as in Pages 5-7 of SMARTSHOP.COM, *wherein the content is obtained from one or more source product database at a third*

network location, e.g., product descriptions are obtained from the databases of merchants servers.

(2) Musgrove discloses the step of *communicating selected data related to the products to the merchandising product database at the first network location such that the selected data is communicated from source product databases to the merchandising product database by way of the second network location and without requiring a direct data transfer between the source product databases at the third network location and the merchandising product database at the first network location.*

As shown in FIG. 1 of Musgrove reference, commerce system includes shopping server 20, client computer 12 and merchant server 40. As further disclosed by Musgrove, the shopper then selects one or more products for purchase from one or more merchant servers 40 (Col. 6 Lines 51-53). When a user selects a product for purchase (Col. 5 Lines 53-57), buy form is filled out and a transaction record is created with transaction information including credit card information, billing addresses, merchant SKU or selected products, shipping options (Col. 6 Lines 67-Col. 7 Lines 6). In proxy server mode, the shopper has to visit the merchant web sites and complete the buy form at merchant sites. The buy form information from merchant server is mapped to fields in shopper database of shopping server 20 (Col. 8 Line 20-67).

The Musgrove teaching as discussed indicates *selected data related to the products*, e.g., credit card information, billing addresses, merchant SKU or selected products, shipping options, is *communicated to the merchandising product database at the first network location*, e.g., the information is mapped to shopper database of shopping server 20, *such that the selected data is communicated from source product databases to the merchandising product database by way of the second network location*, e.g., via the filling process at client computer 12, credit card information, billing addresses, merchant SKU, shipping options included in buyer form from merchant server is mapped to shopper database of shopping server 20, *and without requiring a direct data transfer between the source product*

databases at the third network location and the merchandising product database at the first network location,
e.g., the mapping information via filling process is not a direct data transfer.

- Applicant's arguments regarding the rejection of dependent claims 27-30 under 35 U.S.C. § 102 have been fully considered but they are not persuasive. These dependent claims are unpatentable over Musgrove for at least the reasons as discussed above with respect to claim 26.

In view of the foregoing reasons, the rejection under 35 U.S.C. § 102 is sustained.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 20, 21, 23 and 24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 20, 21, 23 and 24 recite a computer-readable storage medium. As disclosed in the Specification, the recited computer-readable storage medium includes a stream of information [Paragraph 0081]. The description of paragraph 0024 has provided evidence that applicant intends the medium to include signals, e.g., a stream of information, as such the claimed invention is drawn to a form of energy. Energy is not one of the four categories of invention and therefore claims 1-8 are not statutory. Energy is not a series of steps or acts and

Art Unit: 2168

thus is not a process. Energy is not a physical article or object and as such is not a machine or manufacture. Energy is not a combination of substances and therefore is not a composition of matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-9, 20, 21, 23, 24 and 31-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Musgrove et al. [USP 6,535,880 B1].

Regarding claims 1 and 20, Musgrove teaches *a method of populating a merchandising product database, comprising:*

obtaining merchandising data related to a product from a point of presentation of the product, the obtaining step comprising acquiring selected product information from at least one user interaction at a second network location with a presentation medium obtained from a server at a third network location (As shown in FIG. 1 of Musgrove reference, commerce system includes shopping server 20, client computer 12 and merchant server 40. As taught by Musgrove, the first phase of the purchase procedure permits the shopper to search products, browse for products (Col. 6 Lines 49-51). Product information can be searched and displayed by product type, part numbers, price... using an

Art Unit: 2168

interface and presented to the shopper by browser application on client computer (Col. 5 Lines 28-32). The shopper then selects one or more products for purchase from one or more merchant servers 40 (Col. 6 Lines 51-53). When a user selects a product for purchase (Col. 5 Lines 53-57), a transaction record is created with transaction information including credit card information, billing addresses, merchant SKU or selected products, shipping options (Col. 6 Lines 67-Col. 7 Lines 6) and stored in shopper database (Col. 7 Lines 42-47 and 60-64). In short, Musgrove discloses the step of *obtaining merchandising data related to a product*, e.g., credit card information, billing addresses, merchant SKU or selected products, shipping options, *from a point of presentation of the product*, e.g., the selected product web page hosted by merchant server. And *the obtaining step comprising acquiring selected product information from at least one user interaction at a second network location*, e.g., the selected merchant SKU is acquired from the selection of a user at client computer 12, *with a presentation medium obtained from a server at a third network location*, e.g., the web page contains the product obtained from merchant server); and
storing at least part of the obtained merchandising data in the merchandising product database at the first network location, the storing comprising collecting the selected product information in the merchandising product database (Col. 7 Lines 60-67).

Regarding claim 8, Musgrove teaches a merchandising database system, comprising:

an interface configured to be coupled to a network and to obtain selected product data related to a product from at least one user interaction at a second network location with a Web-page served by a server at a third network location (As shown in FIG. 2 of Musgrove reference, commerce system includes shopping server 20, agent server 24, client computer 12 and merchant server 40. The agent server is configured to obtain user information related to a selected product (Col. 4 Lines 43-52). As further disclosed by Musgrove, the shopper selects one or more products for purchase from one or more merchant servers 40 (Col. 6 Lines 51-53). When a user selects a product for

Art Unit: 2168

purchase (Col. 5 Lines 53-57), buy form is filled out and a transaction record is created with transaction information including credit card information, billing addresses, merchant SKU or selected products, shipping options (Col. 6 Lines 67-Col. 7 Lines 6). In proxy server mode, the shopper has to visit the merchant web sites and complete the buy form at merchant sites. The buy form information from merchant server is mapped to fields in shopper database of shopping server 20 (Col. 8 Line 20-67)). In short, the Musgrove teaching indicates the purpose of agent server is to *obtain selected product data related to a product*, e.g., credit card information, billing addresses, merchant SKU, shipping options, *from at least one user interaction at a second network location with a Web-page served by a server at a third network location*, e.g., the selection of product for purchase at the web sites hosted by the merchant server); and

a storage device configured to store at least part of the selected product data at the first network location (The buy form information from merchant server is mapped to fields in shopper database of shopping server 20 (Col. 8 Line 20-67)).

Regarding claims 2 and 21, Musgrove teaches all of the claimed subject matter as discussed above with respect to claims 1 and 20, Musgrove further discloses the step of *obtaining the merchandising data directly from a presentation device at the second network location on which the product is presented* (Col. 5, Lines 18-22).

Regarding claim 3, Musgrove teaches all of the claimed subject matter as discussed above with respect to claim 1, Musgrove further discloses the step of *obtaining data about the product directly from the point of presentation of the product at the second network location* (Col. 5, Lines 18-22).

Regarding claim 4, Musgrove teaches all of the claimed subject matter as discussed above with respect to claim 1, Musgrove further discloses *the merchandising product database does not have information related to the product stored therein prior to the storing step* (Col. 5, Lines 22-28).

Regarding claims 5 and 23, Musgrove teaches all of the claimed subject matter as discussed above with respect to claims 1 and 20, Musgrove further discloses the step of *obtaining the merchandising data generally contemporaneously with presentation of the product at the second network location* (Col. 3, Lines 40-53 and Col. 5, Lines 12-27).

Regarding claims 6 and 24, Musgrove teaches all of the claimed subject matter as discussed above with respect to claims 1 and 20, Musgrove further discloses *the presentation medium comprises an output medium of an interactive catalog* (Col. 4, Lines 59-65 and Col. 5, Lines 6-10).

Regarding claim 7, Musgrove teaches all of the claimed subject matter as discussed above with respect to claim 1, Musgrove further discloses *the presentation medium comprises a Web-page* (Col. 5, Lines 6-10).

Regarding claim 9, Musgrove teaches all of the claimed subject matter as discussed above with respect to claim 8, Musgrove further discloses *the interface is configured to obtain the selected product data directly from a presentation device on which the Web-page is presented at the second network location* (Col. 5, Lines 28-46).

Regarding claims 31-33, Musgrove teaches all of the claimed subject matter as discussed above with respect to claim 1, 8 and 20, Musgrove further discloses *the selected*

information comprises portions of the presentation medium specified by the third network location for storage at the merchandising database at the first network location (Col. 5 Lines 27-46 and Col. 6 Line 67-Col. 7 Line 5).

Claims 26-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Musgrove et al. [USP 6,535,880 B1] and SMARTSHOP.COM [Smartshop Comparison Shopping – Shop Multiple Stores Online].

Regarding claim 26, Musgrove teaches *a method of populating a merchandising product database, comprising:*

rendering, in response to user interaction with an interactive catalog, at least a portion of the interactive catalog at a second network location, wherein content of the rendered portion includes a description of one or more products and wherein the content is obtained from one or more source product database at a third network location (As shown in FIG. 1 of Musgrove reference, commerce system includes shopping server 20, client computer 12 and merchant server 40. As taught by Musgrove, product information such as product descriptions, pricing, delivery dates from plural merchants are gathered (Musgrove, Col. 5 Lines 18-22). Product information can be searched and displayed by product type, part numbers, price... using an interface and presented to the shopper by browser application on client computer (Musgrove, Col. 5 Lines 28-32). As suggested by Musgrove, the shopping interface of SMARTSHOP.COM can be used in connection with Musgrove technique (Col. 5 Lines 41-43). When the user at client computer 12 accesses an interactive catalog, e.g., SMARTSHOP.COM (SMARTSHOP.COM, Page 1), and *in response user interaction with an interactive catalog, e.g., selecting Dot Matrix Printers (SMARTSHOP.COM, Page 3), at least a portion of the interactive catalog at a second network location is rendered, e.g., Pages 5-7 of SMARTSHOP.COM is rendered via the browser of client computer 12, wherein content of the rendered portion includes a*

description of one or more products, e.g., product descriptions are rendered as in Pages 5-7 of SMARTSHOP.COM, wherein the content is obtained from one or more source product database at a third network location, e.g., product descriptions are obtained from the databases of merchants servers.

communicating selected data related to the products to the merchandising product database at the first network location such that the selected data is communicated from source product databases to the merchandising product database by way of the second network location and without requiring a direct data transfer between the source product databases at the third network location and the merchandising product database at the first network location (As shown in FIG. 1 of Musgrove reference, commerce system includes shopping server 20, client computer 12 and merchant server 40. As further disclosed by Musgrove, the shopper then selects one or more products for purchase from one or more merchant servers 40 (Musgrove, Col. 6 Lines 51-53). When a user selects a product for purchase (Musgrove, Col. 5 Lines 53-57), buy form is filled out and a transaction record is created with transaction information including credit card information, billing addresses, merchant SKU or selected products, shipping options (Musgrove, Col. 6 Lines 67-Col. 7 Lines 6). In proxy server mode, the shopper has to visit the merchant web sites and complete the buy form at merchant sites. The buy form information from merchant server is mapped to fields in shopper database of shopping server 20 (Musgrove, Col. 8 Line 20-67). The Musgrove teaching as discussed indicates *selected data related to the products, e.g., credit card information, billing addresses, merchant SKU or selected products, shipping options, is communicated to the merchandising product database at the first network location, e.g., the information is mapped to shopper database of shopping server 20, such that the selected data is communicated from source product databases to the merchandising product database by way of the second network location, e.g., via the filling process at client computer 12, credit card information, billing addresses, merchant SKU, shipping options included in buyer form from merchant server is mapped to shopper database of shopping server 20, and without requiring a direct data transfer between the source product databases at the third network location*

and the merchandising product database at the first network location, e.g., the mapping information via filling process is not a direct data transfer);

modifying the merchandising product databases using the selected data such that the databases include a representation of the selected data (Musgrove, Col. 8 Lines 45-53).

Regarding claim 27, Musgrove teaches all of the claimed subject matter as discussed above with respect to claim 26, Musgrove further discloses *information from the source product databases is communicated to the merchandising product database through the interactive catalog* (Musgrove, Col. 5, Lines 12-25).

Regarding claim 28, Musgrove teaches all of the claimed subject matter as discussed above with respect to claim 26, Musgrove further discloses *the selected data comprises parameters embedded within the rendered portion of the interactive catalog* (Musgrove, Col. 5, Lines 28-46).

Regarding claim 29, Musgrove teaches all of the claimed subject matter as discussed above with respect to claim 26, Musgrove further discloses *the selected data comprises a product identification* (Musgrove, Col. 5, Lines 28-46).

Regarding claim 30, Musgrove teaches all of the claimed subject matter as discussed above with respect to claim 26, Musgrove further discloses *the selected data comprises a product description* (Musgrove, Col. 5, Lines 28-46).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG Q. PHAM whose telephone number is 571-272-4040. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TIM T. VO can be reached on 571-272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you

Art Unit: 2168

would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

H. Pham

HUNG Q PHAM
Primary Examiner
Art Unit 2168

June 14, 2007